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Servant in Other Department Assumed.—Counts in a declaration alleging that injury to servant was due to changing conditions at his place of work, occurring in the progress of the work of other servants in a different department, which was so near him that the probability of contact and danger was obvious, but not alleging circumstances showing negligence of the master in foreseeing and guarding against natural and probable results from acts of fellow servants, nor alleging defect in design or plan of construction contributing to the fall of an iron pipe causing the injury, held not to state a cause of action, because the risk of injury by fellow servants was assumed.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 718, 719.]

5. Master and Servant (§ 150 (5)*)—Warning Held Not Required by Changing Conditions.—A count alleging that the servant's injury was caused by the master's failure to discharge the duty to warn, arising from changing conditions at place of work, held bad on demurrer, since the facts imposed no such duty on the master.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 720.]

6. Master and Servant (§ 92 (1)*)—Master Voluntarily Undertaking to Furnish Medical Attention Must Use Care.—A declaration in an action for servant's death, alleging that defendant employer undertook to furnish hospital and medical attention, and breached that duty by turning the servant out of the hospital too soon and leaving him without attention, held to state a cause of action, defendant, being under duty to use some degree of care in discharging the voluntary undertaking.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 718.]

Appeal from Circuit Court, Prince George County.

Action by George Karabalis, administrator of Nick Karabalis, deceased, against E. I. Du Pont de Nemours & Co. From the action of the court in striking out parts of the amended declaration and sustaining defendant's demurrer to the remainder thereof the plaintiff appeals. Reversed and remanded, with leave to plaintiff to amend certain counts in the declaration.

D. H. & Walter Leake and *Scott & Buchanan*, all of Richmond, and *Penn & Noble*, of Hopewell, for plaintiff in error.

Plummer & Bohannon, of Petersburg, for defendant in error.

CONNER et al. v. WEST

Jan. 20, 1921.

[105 S. E. 762.]

1. Principal and Surety (§ 71*)—Bond of Bank Cashier Not Limited as to Duration.—Bond of a cashier of a bank held to cover a con-

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

tinuing liability during the whole "term of service" of the cashier and not to be limited as to the duration of its obligation to any particular year or other period of the service of the cashier, in view of Code 1887, § 1120, and section 1157, as amended by Acts 1902-3-4, c. 578, even though during such period of service he resigned but was immediately reemployed.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 478.]

2. Principal and Surety (§ 115 (1)*)—Release of Debtor to Bank Not Release of Surety on Cashier's Bond.—Release by receiver of a bank without the consent of sureties on cashier's bond of the mere personal liability to the bank of a third person for an overdraft for which the cashier was also liable to the bank did not release the sureties.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 51, 52.]

3. Principal and Surety (§§ 104 (1), 118*)—Release of Principal or Extension of Debt Releases Surety.—A release of the principal debtor by the creditor, by an absolute release of the debt, or by an obligatory extension of the time of payment without the consent of the surety, releases the surety in toto.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 51.]

4. Principal and Surety (§ 115 (1)*)—Release of Lien Releases Surety.—A release by a creditor without the consent of the surety, of any perfected lien or fund or property held by the creditor in such a way that he has the legal right to apply it in satisfaction of the whole or any part of the debt, releases the surety pro tanto, that is to the extent of the amount which could with certainty, as appeared at the release, have been realized from the security.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 51.]

5. Principal and Surety (§ 115 (1)*)—Subrogation (§ 33 (1)*)—Surety Not Released by Creditor's Release of Collateral Personal Obligation.—As the surety's right of subrogation does not extend to mere personal collateral obligations, the release by the creditor of a collateral personal obligation of a third person will not release the surety even pro tanto.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 53.]

Error to Circuit Court, Northampton County.

Action by A. S. West, receiver for Brickhouse Banking Company, Incorporated, against George H. Monner and others. Judgment for plaintiff, and defendant brings error. Affirmed.

Mapp & Mapp, of Accomac, and *John E. Nottingham*, of Franktown, for plaintiffs in error.

N. B. Wescott and *S. James Turlington*, both of Accomac, for defendant in error.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.